

### REMARKS

The above amendments and following remarks are submitted as a Supplemental Amendment in response to the Official Action of the Examiner (i.e., Paper No. 28) mailed April 12, 2004. Having addressed all objections and grounds of rejection, claims 1-22, being all the pending claims, are now deemed in condition for allowance. Reconsideration to that end is respectfully requested.

The Examiner has requested new formal drawings. Enclosed herewith are updated formal drawings in accordance with a letter to the chief draftsman.

The Examiner has belatedly rejected previously unamended claims 2 and 13 as containing certain alleged informalities. These claims have been amended as suggested by the Examiner.

Claims 1-12<sup>1</sup> and 14-22 have been rejected under 35 U.S.C. 103(a) as being obvious over Cool ICE User's Guide Release 1.0 (hereinafter referred to as "Cool ICE"). This ground of rejection is respectfully traversed for failure of the Examiner to make a *prima facie* case of obviousness. MPEP 2143 requires that the alleged combination (i.e., Cool ICE in this case) include all of

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<sup>1</sup>It is unclear whether the Examiner has found claim 13 to be free of the prior art of record.

the claimed limitations. The Examiner specifically admits that the alleged combination does not. She states:

Although Cool ICE teaches the invention substantially as cited above, it does not teach transferring an unavailability message to said user terminal in response to said service request when said data base management system is unavailable to receive and respond to said service request.

Therefore, the rejection of claims 1-12 and 14-22 is respectfully traversed as a matter of law for being admittedly incomplete.

To the extent that the Examiner had intended to reject any pending claims on an alleged combination of Cool ICE with the article entitled, "A distributed Real-Time Database for Heterogeneous Computer Control Systems" by Madan, et al. (hereinafter referred to as "Madan"), that rejection is respectfully traversed as based upon clearly erroneous findings of fact and incorrect application of controlling law.

The Examiner states:

Madan et al. teaches that when the kernel receives a request for access to a particular data (sic) it checks to see if it is available....

The actual quote from Madan is:

....checks to see if it is locally available. If it is not, then the kernel checks to identify the node(s) at which it is available. (emphasis added)

There is simply no consideration within Madan that the data is not available, it is simply a matter of whether it is locally available or only remotely available. Madan makes no provision of when data is not available at all.

Madan concludes that process by stating in the Abstract:

After performing the transaction it returns the status of the transaction to the client application. (Emphasis added)

It is perfectly clear that Madan does not anticipate ever returning "status" before performing the transaction", as when, for example, the data is not available.

Furthermore, even if Madan operated as suggested by the Examiner, her conclusion would be legally irrelevant. The claims require that the "unavailability message" indicate unavailability of the "data base management system". This has nothing to do with unavailability of data. The Examiner doesn't even allege that Madan says anything about such "unavailability", which it does not.

The legal basis for rejection of claim 2-5 is unclear. The Examiner simply states:

8. Regarding claims 2-5; a repository for storing said unavailability message [note Madan et al. figure 5].

It is baffling why the Examiner assumes that Madan Fig. 5 has anything to do with the claimed invention. The rejection of claims 2-5 is respectfully traversed as meaningless.

The Examiner has rejected claims 6-22 stating:

9. The limitations of claims 6-22 parallel that of claims 1-5 therefore they are rejected under the same rationale.

This statement is clearly erroneous because claims 6-22 do indeed contain limitations and combinations thereof not mentioned in claims 1-5. Furthermore, the statement is incorrect as a matter of

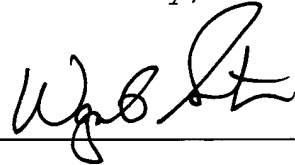
law. Claims 6-10; claims 11-15; and claims 16-20 all have different statutory and judicial basis for patentability and examination thereof. For example, claims 16-20 contain "means-plus-function" limitations which must be examined in accordance with MPEP 2181 et seq. The rejection of claims 6-22 is respectfully traversed as procedurally inadequate, based upon clearly erroneous findings of fact, and improper application of controlling law.

Having thus responded to each objection and ground of rejection, Applicants respectfully request entry of this amendment and allowance of claims 1-22, as amended, being the only pending claims.

Respectfully submitted,

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By his attorney,



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